investigations, 18 U.S.C. 1505, which has also been weakened by a court case. In 1991, in a dramatic departure from other circuits, the D.C. Circuit Court of Appeals held in United States v. Poindexter that the statute's prohibition against corruptly obstructing a Congressional inquiry was unconstitutionally vague and failed to provide clear notice that it prohibited an individual's lying to Congress. The court held that, at most, the statute prohibited one person from inducing another person to lie or otherwise obstruct Congress.

The Senate bill would affirm instead the views held by the other circuits and bring the Congressional statute back into line with other Federal obstruction statutes, by making it clear that Section 1505 prohibits obstructive acts by a person acting alone as well as when inducing another to act. The bill would also make it clear that the prohibition against obstructing Congress bars a person from making false or misleading statements and from withholding, concealing, altering or destroying documents requested by Congress. The bill would, in short, restore the strength and usefulness of the Congressional obstruction statute as well as restore its parity with other obstruction statutes protecting federal investigations.

The final two sections of the bill would clarify the ability of Congress to compel testimony and documents. Both provisions are taken from a 1988 bill, S. 2350, sponsored by then Senator Rudman and cosponsored by Senator INOUYE, which passed the Senate unanimously but was never enacted into law.

The first of these two provisions would clarify when Congress may obtain judicial enforcement of a Senate subpoena under 28 U.S.C. 1365. Section 1365 generally authorizes judicial enforcement of a Senate subpoena, except when a subpoena has been issued to an executive branch official acting in his or her official capacity—an exception that seeks to keep interbranch disputes out of the courtroom. S. 1734 would not eliminate or restrict this exception, but would make it clear that the exception applies only to an executive branch official asserting a governmental privilege that he or she has been authorized to assert. The bill would make it clear that an executive branch official asserting a personal privilege or asserting a governmental privilege without being authorized to do so could not automatically escape judicial enforcement of the Senate subpoena under Section 1365.

This provision, revised from the bill as introduced, includes suggestions from the Justice Department to make it clear that an official can establish in several ways that he or she has been authorized to assert a governmental privilege including, for example, by providing a letter or affidavit from an appropriate senior government official. The provision is also intended to make it clear that the person resisting compliance with the Senate subpoena has the burden of proving that his or her action had, in fact, been authorized by the executive branch.

The fourth and final provision involves individuals given immunity from criminal prosecution by Congress. The bill would re-word the Congressional immunity statute, 18 U.S.C. 6005, to parallel the wording of the judicial immunity statute, 18 U.S.C. 6003, and make it clear that Congress can compel testimony from immunized individuals not only in committee hearings, but also in ''ancillary'' proceedings such as depositions conducted by committee members or committee staff. This provision, like the proceeding one, would improve the Senate's ability to compel testimony and obtain requested documents. It would also bring greater consistency across the government in how immunized witnesses may be questioned.

Provisions to bar false statements and compel testimony have been on the Federal statute books for 40 years or more. Recent court decisions and events have eroded the usefulness of some of these provisions as they apply to the courts and Congress. The bill before you is a bipartisan effort to redress some of the imbalances that have arisen among the branches in these areas. It rests on the premise that the courts and Congress ought to be treated as co-equal to the executive branch when it comes to prohibitions on false statements. I urge you to join Senator SPECTER, myself and our cosponsors in supporting swift passage of this important legislation.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the amendment be considered as read and agreed to, the bill be deemed read a third time, passed, as amended, the motion to reconsider be laid upon the table, and an amendment to the title which is at the desk be agreed to, and that any statements relating to the bill be placed at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 5091) was agreed to.

The bill (H.R. 3166), as amended, was deemed read the third time and passed.

The title was amended so as to read: ''To prohibit false statements to Congress, to clarify congressional authority to obtain truthful testimony, and for other purposes.''

FEDERAL EMPLOYEE REPRESENTATION IMPROVEMENT ACT OF 1995

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of calendar 339, H.R. 782.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 782) to amend title 18 of the United States Code to allow members of employee associations to represent their views before the U.S. Government.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on the Judiciary, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Federal Employee Representation Improvement Act of 1996''.

SEC. 2. REPRESENTATION BY FEDERAL OFFICERS AND EMPLOYEES.

(a) EXTENSION OF EXEMPTION TO PROHIBITION.—Subsection (d) of section 205 of title 18, United States Code, is amended to read as follows:

''(d)(1) Nothing in subsection (a) or (b) prevents an officer or employee, if not inconsistent with the faithful performance of that officer's or employee's duties, from acting without compensation as agent or attorney for, or otherwise representing—

''(A) any person who is the subject of disciplinary, loyalty, or other personnel administration proceedings in connection with those proceedings; or

''(B) except as provided in paragraph (2), any cooperative, voluntary, professional, recreational, or similar organization or group not established or operated for profit, if a majority of the organization's or group's members are current officers or employees of the United States or of the District of Columbia, or their spouses or dependent children.

''(2) Paragraph (1)(B) does not apply with respect to a covered matter that—

''(A) is a claim under subsection (a)(1) or (b)(1);

''(B) is a judicial or administrative proceeding where the organization or group is a party; or

''(C) involves a grant, contract, or other agreement (including a request for any such grant, contract, or agreement) providing for the disbursement of Federal funds to the organization or group.''.

(b) APPLICATION TO LABOR-MANAGEMENT RELATIONS.—Section 205 of title 18, United States Code, is amended by adding at the end the following:

''(i) Nothing in this section prevents an employee from acting pursuant to—

''(1) chapter 71 of title 5;

''(2) section 1004 or chapter 12 of title 39;

''(3) section 3 of the Tennessee Valley Authority Act of 1933 (16 U.S.C. 831b);

''(4) chapter 10 of title I of the Foreign Service Act of 1980 (22 U.S.C. 4104 et seq.); or

''(5) any provision of any other Federal or District of Columbia law that authorizes labor-management relations between an agency or instrumentality of the United States or the District of Columbia and any labor organization that represents its employees.''.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the committee amendment, as amended, be agreed to, the bill be deemed read a third time, passed, the motion to reconsider be laid upon the table, and any statements relating to the bill be placed at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 782), as amended, was deemed read the third time and passed.